

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 7, 2008

**D050091      In re the Marriage of Deutsch**

The family court's temporary child and spousal support order is reversed and the case is remanded for determination of temporary child and spousal support without regard to the amount David's employer makes in pension contributions. Appellant to recover his costs of appeal. Benke, Acting P.J.; We Concur: Nares, Acting P.J., Irion, J.

**D053337      In re Crystal K. et al., Juveniles**

The case has been reviewed by Associate Justices McIntyre, Nares and Aaron. The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is dismissed without prejudice to refiling a notice of appeal after an appealable order or judgment has been entered.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 8, 2008

**D051858      People v. Smith**

The judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., Irion, J.

**D048882      In re Red Light Photo Enforcement Cases**

The petition for rehearing is denied.

**D052814      People v. Blount**

The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D050673      People v. Averett**

The judgment is affirmed. McIntyre, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

**D052410      In re A.G. et al., Juveniles**

The appeal is dismissed. Benke, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D053017      Pacific Law Center v. Superior Court of San Diego County/Eldridge**

The petition for writ of mandate and response have been read and considered by Justices Nares, Haller and Aaron. The petition is denied.

**D053037      In re Hill on Habeas Corpus**

The petition is denied.

**D053058      In re Herrera on Habeas Corpus**

The petition for writ of habeas corpus has been read and considered by Justices Nares, Haller, and Aaron. Petitioner David Herrera is incarcerated at California State Prison, Centinela (Centinela). In January 2008, after reviewing Herrera's case factors, prison officials determined that Herrera was eligible for and approved him for an involuntary transfer to an out-of-state prison. **The approval expired on May 30, 2008.**

Herrera administratively appealed the above determination and approval, arguing that he could not be transferred to an out-of-state prison without his consent and that such a transfer would impair his rehabilitation efforts. His administrative appeal was denied through the Director's Level of Review. In this petition, Herrera argues that the decision to involuntarily transfer him to an out-of-state prison violates his federal due process and equal protection rights. In addition, he argues that prison officials have not followed their own criteria in determining which inmates are eligible for involuntary out-of-state transfers.

We conclude that Herrera has failed to demonstrate that he has exhausted his administrative remedies because the issues raised in the petition do not appear to have been raised as part of his administrative appeal. (*In re Dexter* (1979) 25 Cal.3d 921, 925; *Wright v. State of California* (2004) 122 Cal.App.4th 659, 666.) We further conclude that the petition is moot because the challenged transfer approval has expired and nothing in the record indicates that Herrera has been transferred out-of-state or that his transfer has been reauthorized. The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 8, 2008 (Continued)

**D052866      In re C. C. et al., Juveniles**

The appeal is dismissed. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

**D050459      People v. Wooley**

We reverse and remand for the limited purpose of permitting the court to rule on the merits of Wooley's request to withdraw his guilty plea based on ineffective assistance of counsel. Haller, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D052401      In re A.B., a Juvenile**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. McConnell, P.J.;  
We Concur: McIntyre, J., Aaron, J.

**D052372      Leticia L. v. The Superior Court of San Diego County/San Diego County  
Health and Human Services Agency**

Let a writ issue directing the juvenile court to correct its finding and order concerning adoption made on January 23, 2008, in the case of *Angel L.*, J512443G. In all other respects, the petition is denied.  
McIntyre, J.; We Concur: McConnell, P.J., Nares, J.

**D052251      People v. Sandoval**

The order is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D052682      In re Nate T., a Juvenile**

Upon filing an abandonment of appeal, personally signed by the defendant, I.T., the appeal is dismissed and the remittitur is ordered to issue immediately.

**D052672      Scott et al. v. Florestone Products, Inc.**

Upon written request filed by appellants, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D052400      In re A. P. et al., Juveniles**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 9, 2008

**D050286      People v. Thomas**

The petition for rehearing is denied.

**D051378      Tillman et al. v. Petrus Jr., et al.**

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

**D053040      In re M. A., a Juvenile**

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

**D052228      People v. Woodall**

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Irion, J.

**D052363      In re E.M., a Juvenile**

The order is affirmed. Haller, J.; We Concur: McConnell, P.J., McIntyre, J.

**D053346      Kneebone et al. v. Superior Court of San Diego County/Norris**

The petition is denied.

**D053293      Ruiz v. Superior Court of San Diego County/People**

The petition for writ of mandate and request for stay have been read and considered by Justices Nares, Haller and Aaron. The petition is denied.

**D053073      Tritex Telecom, Inc. v. Superior Court of San Diego County/Mak**

The Superior Court of San Diego County is ordered to show cause why the relief requested should not be granted. Absent objection on or before July 18, 2008, the briefs on file will be deemed the return and reply to the order to show cause.

Absent a written request on or before July 25, 2008, oral argument will be deemed waived. If a party requests oral argument, the request should be in letter form with proof of service on the other parties. The letter should also identify the focus of the party's argument and the amount of time requested, not to exceed 15 minutes.

**D052504      Cooper v. Superior Court of San Diego County/People**

The court requests that the petitioner and the real party in interest submit simultaneous letter briefs, no longer than 5 pages, addressing the following question:

What is the effect of Verdin v. Superior Court (2008) 43 Cal.4th.1096 on the proper disposition of this case?

All briefs shall be filed and served, by July 23, 2008.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 10, 2008

**D051964      In re Vanessa A., a Juvenile**

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D052253      People v. Ellis**

The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D050878      Rivera v. Wrege et al.**

The judgment is affirmed. David Wrege and the City of Chula Vista are awarded costs on appeal. O'Rourke, J.; We Concur: Nares Acting P.J., Irion, J.

**D051287      Marriott Hotel Services, Inc. v. National Vacation Resorts: Kosher Classics, Inc.**

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Nares, J.

**D053363      Simos v. Superior Court of San Diego County/Parks et al.**

The petition for writ of mandate and request for stay have been read and considered by Justices Nares, Haller and Aaron. The petition is denied.

**D052364      In re Langnese on Habeas Corpus**

The petition for a writ of habeas corpus and informal response have been read and considered by Justices Nares, Haller and Aaron.

The matter is stayed pending decisions by the California Supreme Court in *In re Sandra Lawrence* (S154018) and *In re Richard Shaputis* (S155872).

**D052313      In re Charity M., a Juvenile**

The petition for rehearing is denied.

**D051961      In re Maxwell on Habeas Corpus**

The petition for writ of habeas corpus, and the informal response filed regarding the matter, have been read and considered by Justices Huffman, Haller and McIntyre. Petitioner's claim for habeas relief is moot in light of the relief granted him in his underlying appeal in *People v. Zingsheim, et al.*, D049189.

**D049189      People v. Zingsheim et al.**

Each of the defendants' convictions is affirmed. The true finding and enhancement imposed for Maxwell's prior serious felony conviction under section 667, subdivision (a)(1) is stricken. The sentence and victim restitution order regarding Guerrero imposed as to each defendant is reversed. The matter is remanded to the superior court to conduct a new sentencing hearing for each defendant and for a new restitution hearing regarding victim Guerrero consistent with the views expressed in this opinion. Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

**D053269      The Cadle Company v. Landesman**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 9, 2008 (Continued)

**D052609      People v. Ford, Jr.**

The judgment is affirmed. Haller, Acting P.J.; We Concur: McIntyre, J., Irion, J.

**D050870      People v. Lincoln General Insurance Company**

The order denying Lincoln's motion to set aside forfeiture of its \$50,000 bail bond is reversed, and the trial court is directed to vacate the forfeiture and exonerate the bond. Nares, J.;

We Concur: Benke, Acting P.J., Aaron, J.

**D051020      People v. Martinez**

**D051021      People v. Martinez**

**(consolidated)**

The judgment is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

**D053070      Genovese et al. v. Superior Court of San Diego County/Young Chang  
America, Inc. et al.**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 10, 2008

**D051137      In re Marriage of Kline**

The order is affirmed. Wanda is to bear her own costs on appeal. McIntyre, J.;  
We Concur: Huffman, Acting P.J., Haller, J.

**D051912      People v. Ford**

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 11, 2008

D053305      Robinson v. Bontrada

Faustino Robinson's Request for Permission to Appeal received by this court on July 10, 2008, has been read and considered. The request is DENIED. (Code of Civ. Proc. § 391.7, subd. (b).) The appeal filed with the Superior Court on June 26, 2008, is DISMISSED.



COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 14, 2008

**D050669      People v. Gomez**

The judgment of the trial court is affirmed. Aaron, J.; We Concur: McConnell, P.J., Irion, J.

**D052199      In re Gomez on Habeas Corpus**

The petition is denied.

**D051945      San Diego Police Officers Association v. Casey Gwinn**

The order is reversed. The case is remanded to the trial court for the entry of a new order dissolving the injunction. Each party to bear own costs on appeal. Huffman, Acting P.J.; We Concur: Nares, J., Haller, J.

**D051846      People v. Dyson**

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., McIntyre, J.

**D051567      People v. Garcia**

The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D053254      Metronomic Corporation v. Superior Court of San Diego County/Szem**

The petition for writ of mandate and request for stay have been read and considered by Justices Nares, Haller and Aaron. The petition is denied.

**D053277      Dyson et al. v. Superior Court of San Diego County/Chicago Title Company et al.**

The requests for judicial notice are granted. The petition is denied.

**D053195      In re Gurule on Habeas Corpus**

The petition is denied.

**D052785      In re Krum on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 14, 2008 (Continued)

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron

Clerk: D. Moore

**D050305      Platypus Wear Inc., et al. v. Goldberg**

Cause called on merits. Robert Allenby, Esq. argued for appellant. Michael H. Riney, Esq. argued for respondent. Mr. Allenby replied. Cause submitted.

Court recessed at 9:55 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

Clerk: D. Moore

**D050948      Comeau v. Reese**

Cause called on merits. Philip L. Gagnon, Esq. for appellant, as well as Jerry L. Carmody, Esq. for respondent, was present in oral argument and submitted on the briefs. Cause submitted.

Court recessed at 1:35 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

**D052088      Budman v. St. Bernard Software Inc., et al.**

Cause called on merits. Dennis Childs, Esq. argued for appellant. Timothy P. Dillon, Esq. argued for respondent. Mr. Childs replied. Cause submitted.

**D050930      Gomez v. Drake Transport Inc., et al.**

Cause called on merits. George C. Gonzalez, Esq. argued for appellant. Richard Lawrence Scott, Esq. argued for respondent. Mr. Gonzalez replied. Cause submitted.

**D051408      Dornbirer v. Kaiser Foundation Health Plan Inc., et al.**

Cause called on merits. David A. Kay, Esq. argued for appellant. Lawrence A. Cox, Esq. argued for respondent. Mr. Kay replied. Cause submitted.

Court recessed at 2:51 p.m. until Tuesday, July 15, 2008 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 15, 2008

**D053282      In re Barno on Habeas Corpus**

The petition is denied.

**D052265      In re Vivian J., a Juvenile**

The order is affirmed. Irion, J.; We Concur: Haller, Acting P.J., McIntyre, J.

**D050944      OPM, Inc. v. Metropolitan Transit Development Board**

The petition for rehearing is denied.

**D052085      Winchel v. Lowry**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

**D053140      Hugo N. et al. v Superior Court of San Diego County/San Diego County  
Health and Human Services Agency**

The attorney for petitioner Hugo N. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke  
Clerk: D. Moore

**D052122      In re Anthony K. et al., Juveniles**

Cause called on merits. Maryann Marisa Milcetic, Esq. argued for appellant. Carl Fabian, Esq. argued for the minor. Erica Gardner, Deputy County Counsel argued for respondent. Cause submitted.

Court recessed at 9:26 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron  
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 15, 2008 (Continued)

**D051416      In re Evan V., a Juvenile**

Cause called on merits. John L. Staley, Esq. argued for appellant. Rosy Stolow, Certified Law Student argued for respondent. Mr. Staley replied. Cause submitted.

**D051524      Mayer v. Department of Real Estate**

Cause called on merits. Laura Lynne Mayer, argued for appellant in pro per. Leslie Branman Smith, Deputy Attorney General argued for respondent. Ms. Mayer replied. Cause submitted.

**D052402      Treo @ Kettner Homeowners Association v. Superior Court/Intergulf  
Construction Corporation et al.**

Matter called on merits. Anne L. Rauch, Esq. argued for petitioner. Charlie Bird, Esq. argued for real party in interest, Intergulf. Ms. Rauch replied. Matter submitted.

Court recessed at 3:05 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Terry O'Rourke

**D051112      Gilday v. Fegan et al.**

Cause called on merits. Henry Charles Truszkowski, Esq. argued for appellant. Stanley P. Fleshman, Esq. argued for respondent. Mr. Truszkowski replied. Cause submitted.

**D050826      Valdez v. Pizza Hut Inc., et al.**

Cause called on merits. John W. Hanson, Esq. argued for appellant. Melissa R. McCormick, Esq. argued for respondent. Mr. Hanson replied. Cause submitted.

Court recessed at 3:48 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

**D047364      Schaffter et al. v. Creative Capital Leasing Group LLC**

Cause called on merits. Jason Barsi, Esq. argued for appellant. Mary A. Lehman, Esq. argued for respondent. Cause submitted.

Court recessed at 4:00 p.m. until Wednesday, July 16, 2008 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 16, 2008

**D053233      Jessica D. v. Superior Court of San Diego County/People**

Let a writ of mandate issue directing the superior court to vacate its April 21, 2008, order denying the petition to seal juvenile records and enter a new order granting the petition. This opinion is final immediately as to this court. (Cal. Rules of Court, rule 8.264, subd. (b)(3).)

**D052121      In re Tiffany T. et al, Juveniles**

The orders are affirmed. Benke, Acting P.J.; We Concur: Nares, J., Irion, J.

**D051994      People v. Mendoza**

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., McIntyre, J.

**D052437      People v. Rodriguez**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Aaron, J.

**D052538      In re O.J., a Juvenile**

The order is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Irion, J.

**D049266      Vesco v. San Diego Community Correctional Center et al.**

The petition for rehearing is denied.

**D049198      Brack v. Omni Loan Company LTD et al.**

The opinion filed 6/17/08, is certified for publication.

**D052923      Kirk v. Superior Court of San Diego County/Stockton et al.**

In light of the superior court's June 3, 2008, transfer of the action to Judge Dahlquist, the alternative writ issued May 28, 2008 is discharged. The petition is dismissed as moot.

**D053388      In re P.A. et al., Juveniles**

The case has been reviewed by Associate Justices McIntyre, Nares and Aaron. The notices of appeals are premature because no appealable order or judgment has yet been entered. The appeals are dismissed without prejudice to refiling notices of appeal after appealable orders or judgments have been entered.

**D053002      In re the Marriage of Johnsen**

The appeal is dismissed for appellant's failure to timely designate the record.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 16, 2008 (Continued)

**D052779      In re Allen on Habeas Corpus**

The petition is denied.

**D052667      Allen v. Superior Court of Imperial County/Reilly**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Terry O'Rourke  
Clerk: D. Moore

**D050562      Bayasi v. The Regents of the University of California**

Cause called on merits. Holly E. Ackley, Esq. argued for respondent. Robert R. Massey, Esq. argued for appellant. Cause submitted.

**D049932      People v. Dye**

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant. Christopher Beesley, Deputy Attorney General argued for respondent. Mr. Wallingford replied. Submission is deferred giving the parties an opportunity to submit supplemental letters. Appellant's is due on or before July 18, 2008. Respondent may file a response on or before July 23, 2008. Cause to be submitted on July 24, 2008.

Court recessed at 9:45 a.m. to change panels. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Terry O'Rourke

**D050571      People v. Armenta**

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Gary Brozio, Deputy Attorney General argued for respondent. Ms. Harguindeguy replied. Cause submitted.

Court recessed at 10:03 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 16, 2008 (Continued)

**D049191      Great Western Drywall, Inc. v. Roel Construction, Inc.**

Cause called on merits. Steven R. Borer, Esq. argued for appellant/cross-respondent. Aaron C. Hancock, Esq. argued for respondent/cross-appellant. Mr. Borer replied. Mr. Hancock replied. Cause submitted.

Court recessed at 11:00 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

Clerk: D. Moore

**D051155      Horton v. Commission on Professional Competence et al.**

Cause called on merits. Willie Horton, argued for appellant, in pro per. Michelle M. Mitchell, Esq. argued for respondent, Commission on Professional Competence. Jose A. Gonzales, Esq. argued for respondent, San Diego Unified School District. Mr. Horton replied. Cause submitted.

Court recessed at 1:50 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

**D050832      Sturgeon v. County of Los Angeles**

Cause called on merits. Sterling Ernie Norris, Esq. argued for appellant. Elwood Lui, Esq. argued for respondent. Mr. Norris replied. Cause submitted.

**D050479      Major et al. v. Western Home Insurance Company**

Cause called on merits. Margaret S. Thomas, Esq. argued for appellant. Craig A. Miller, Esq. argued for respondent. Ms. Thomas replied. Cause submitted.

**D048746      U. S. Grant Hotel Ventures LLC v. American Property Management Corporation et al.**

**D050053      U. S. Grant Hotel Ventures LLC v. American Property Management Corporation et al.**

Cause called on merits. Jon R. Williams, Esq. argued for appellant. Monique Candor, Esq. argued for respondent. Mr. Williams replied. Cause submitted.

Court recessed at 4:45 p.m. until Thursday, July 17, 2008 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 17, 2008

**D052840      Susan H. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. The request for a stay is denied. McConnell, P.J.; We Concur: Haller, J., McIntyre, J.

**D050909      People v. Sexton**

The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D049923      People v. Turk**

The judgment is affirmed. Certified for Partial Publication. Aaron, J.; We Concur: McConnell, P.J., Nares, J.

**D052253      People v. Ellis**

The petition for rehearing is granted. No further briefing is required. The case is deemed submitted as of this date.

**D050732      Roberts v. Ross, et al.**

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

Clerk: D. Moore

**D051707      Gong v. RFG Oil Inc., et al.**

Cause called on merits. William W. Ravin, Esq. argued for appellant. Joseph C. Kracht, Esq. argued for respondent. Mr. Ravin replied. Cause submitted.

**D051521      In re Esperanza C., a Juvenile**

Cause called on merits. Donna Kaiser, Esq. argued for appellant, Laura C. Julie E. Braden, Esq. argued for appellant, Esperanza C. Gary Seiser, Deputy County Counsel argued for respondent. Ms. Braden replied. Ms. Kaiser replied. Mr. Seiser replied. Cause submitted.

Court recessed at 9:42 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre



COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 17, 2008 (Continued)

**D050491      Brown v. Winn**

Cause called on merits. Noel W. Spaid, Esq. argued for appellant. Ronald J. Lauter, Esq. argued for respondent. Ms. Spaid replied. Cause submitted.

Court recessed at 10:11 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron  
Clerk: D. Moore

**D051045      Agosto v. Board of Trustees of the Grossmont-Cuyamaca Community  
College District**

Cause called on merits. Martha A. Torgow, Esq. argued for appellant. Jack M. Sleeth, Esq. argued for respondent. Ms. Torgow replied. Cause submitted.

Court recessed at 1:51 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice and The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D049240      Waits et al. v. Pacifica Villa Royale LLC et al.**

Cause called on merits. Audrey Powers Thornton, Esq. argued for appellant. Richard H. Benes, Esq. argued for respondent, Pacifica Villa Royale, LLC. Raul L. Martinez, Esq. argued for respondent, Home Builders Marketing Services, Inc. Ms. Thornton replied. Cause submitted.

Court recessed 2:30 p.m. until Friday, July 18, 2008 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 18, 2008

**D052936      Carey J. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. Irion, J.; We Concur: McConnell, P.J., Nares, J.

**D052686      Post et al. v. The Swan Corporation**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

**D052263      In re Glenna B., a Juvenile**

The order is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., Irion, J.

**D053207      K.M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner K.M. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

**D053091      D.P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is DISMISSED.

**D052062      People v. Leth**

The order is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

**D053295      WRC Partners v. Superior Court of San Diego County/Armstrong**

The petition is denied.

**D053359      Karolides v. Superior Court of San Diego County/People**

The petition is denied.

**D050718      People v. Cardenas**

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., McIntyre, J.

**D050948      Comeau v. Reese**

The order is affirmed. Reese shall recover her costs on appeal. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

Court convened at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
July 18, 2008 (Continued)

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Gilbert Nares  
Clerk: D. Moore

**D047199      Donovan et al. v. Poway Unified School District et al.**

Cause called on merits. George Edson Murphy, Esq. argued for appellant/cross-respondent. F. Brian Chase, Esq. argued for respondent/cross-appellant. Mr. Murphy replied. Cause submitted.

Court adjourned at 9:51 a.m.

**D053312      Adrian T. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Stephen T. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

**D052437      People v. Rodriguez**

Pursuant to California Rules of Court, rule 8.268, the court, on its own motion, orders rehearing in this matter. No further briefing is required. The case is deemed submitted as of this date.

**D052437      People v. Rodriguez**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Aaron, J.

**D053100      In re Cody S., a Juvenile**

Upon filing a written abandonment of appeal, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)